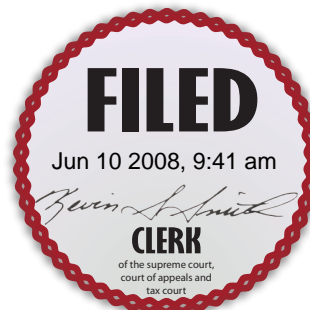


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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MICHAEL K. JOHNSON,  
  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
  
Appellee-Plaintiff.

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No. 49A02-0707-CR-593

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Steven Rubick, Judge  
Cause No. 49G04-0611-FC-225427

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**June 10, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Michael K. Johnson, pro se, appeals his conviction of Resisting Law Enforcement,<sup>1</sup> a class D felony, Carrying A Handgun Without A License,<sup>2</sup> a class C felony, Driving While License Suspended With A Prior,<sup>3</sup> a class A misdemeanor, and Reckless Driving,<sup>4</sup> a class B misdemeanor. Johnson presents the following restated issues for review:

1. Did Johnson receive proper notice of the charges against him?
2. Did the State properly amend the charging informations?
3. Were the abstracts of judgment defective?

We affirm.

The facts favorable to the convictions are that on November 26, 2006, Officer Anthony Bath of the Indianapolis Police Department initiated a traffic stop of the vehicle Johnson was driving. Johnson was alone in the vehicle at the time. As the officer approached Johnson's vehicle, he saw a black bag sitting on the front passenger seat within an arm's length of Johnson. Officer Bath asked Johnson for his identification and watched as Johnson fumbled with his wallet. The officer saw Johnson skip over some form of identification three separate times. The officer repeated his request for identification and Johnson admitted that his license was suspended. Johnson then put his

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<sup>1</sup> Ind. Code Ann. § 35-44-3-3 (West, PREMISE through 2007 1st Regular Sess.).

<sup>2</sup> Ind. Code Ann. § 35-47-2-1 (West, PREMISE through 2007 1st Regular Sess.).

<sup>3</sup> Ind. Code Ann. § 9-24-19-2 (West, PREMISE through 2007 1st Regular Sess.).

<sup>4</sup> Ind. Code Ann. § 9-21-8-52 (West, PREMISE through 2007 1st Regular Sess.).

car in gear and sped off. Officer Bath put out a dispatch that a subject was fleeing, described Johnson's vehicle, and gave chase. Officer Bath pursued Johnson's vehicle into a crowded skating rink parking lot but lost him there because he had to drive slowly as a result of the number of pedestrians present.

Meanwhile, Officer Michael Kavanaugh had received the dispatch regarding Officer Bath's report and was driving to the area to assist when a vehicle matching the description of the suspect's vehicle passed him going the opposite direction at a high rate of speed. Officer Kavanaugh activated his lights and siren and pursued the suspect. He followed the vehicle into an apartment parking lot and saw the vehicle crash into a privacy fence, after which the driver of the vehicle fled on foot. Other officers arrived on the scene and set up a perimeter. Officer Kavanaugh secured the suspect's vehicle and observed a dark-colored duffel bag sitting on the front passenger seat. He opened the bag and found a pair of skates and a handgun. He placed the bag and its contents in Officer Bath's squad car. A short time later Johnson was discovered by K-9 units hiding on the roof of a nearby nursing home. After Johnson jumped from the roof and attempted to flee, he was subdued by a K-9 unit.

Johnson was charged with two counts of resisting law enforcement, one as a class D felony and one as a class A misdemeanor, and carrying a handgun without a license as a class A misdemeanor. Later, the State amended the charges by adding reckless driving as a class B Misdemeanor, and elevating the handgun offense to a class C felony because of a previous, similar conviction. Johnson was convicted as set out above following a

jury trial.

We note that Johnson not only represented himself at trial, but is also doing so on appeal. We remind Johnson at the outset that pro se litigants are held to the same standard as trained counsel and are required to follow procedural rules. *Evans v. State*, 809 N.E.2d 338 (Ind. Ct. App. 2004), *trans. denied*.

1.

Johnson claims he did not receive proper notice of the charges against him. He explains:

The Judge said that she would provide the Information and Affidavit to Mr. Johnson later, and never did. In fact, this was Mr. Johnson's (72-hour day) without providing Information, nor requested a continuance on this matter. . . . In addition, stating in this (line 012) the Omnibus date and all other procedures should not have taken place until the court has found, and provide the Information by I.C. 35-34-1-1(c), and in accordance with I.C. 35-34-1-3 to Mr. Johnson and his counsel.

*Amended Appellant's Brief* at 3-4 (transcribed verbatim). We presume the foregoing represents a claim that he was not provided a copy of the charges against him in the form of a charging information.

Johnson's factual claim is not supported by the record. Moreover, he appears to admit as much. In his brief, he states:

The defendant was ignored the demand of accusation against him on 12-20-06 Pre-Trial Conference and on 01-24-07 upon demand received his Information. . . . Furthermore, the Information was place in the Notice of Discovery filed 12-05-06, but not certified, and this Notice of Discovery was filed in another out of court session hearing without advising all parties.

*Id.* at 5 (transcribed verbatim). Although not a model of clarity, the best interpretation of the foregoing excerpt is that he did in fact receive the charging informations, and thus was properly notified of the charges against him.

2.

Johnson contends the State improperly amended the charging information. This claim is based on the fact that the State apparently amended the charging information that was going to be read to the jury at the outset of trial in order to remove the count alleging a prior handgun conviction. Johnson was apparently confused about the need to do so and questioned the court about the amendment. The court explained why the amendment was made, and clarified for Johnson, “the charges the State is proceeding on are these four charges, resisting law enforcement as a Class D felony, carrying a handgun without a license, driving while suspended with a prior, and reckless driving.” *Transcript* at 34. Johnson indicated he understood. More importantly, we cannot find anywhere in the record where Johnson interposed a contemporaneous objection, *see Absher v. State*, 866 N.E.2d 350 (Ind. Ct. App. 2007), and then, if that objection was overruled, requested a continuance. *See A.E.B. v. State*, 756 N.E.2d 536 (Ind. Ct. App. 2001). Because Johnson failed to object, much less request a continuance thereafter, the issue is waived. *See Absher v. State*, 866 N.E.2d 350; *A.E.B. v. State*, 756 N.E.2d 536.

3.

Johnson claims reversal is warranted because of irregularities in the abstract of judgment pertaining to this case and one pertaining to a prior conviction of Johnson’s.

Johnson cites multiple irregularities, each pertaining to matters of form, with respect to the abstract of judgment in the instant case. The abstract of judgment is a “form issued by the Department of Correction and completed by trial judges for the convenience of the Department.” *McElroy v. State*, 865 N.E.2d 584, 588 (Ind. 2007) (quoting *Robinson v. State*, 805 N.E.2d 783, 792 (Ind. 2004)). The abstract of judgment is not the official trial court record or the controlling document in a case; the trial court’s judgment of conviction is. *Robinson v. State*, 805 N.E.2d 783. Even if, to cite two of Johnson’s claims, the defense attorney was someone other than the person recorded on the appropriate line of the abstract of judgment, or the judge dated his signature on the abstract three days after the sentencing hearing, Johnson does not explain how these alleged irregularities prejudiced him, nor can we conceive of any. Thus, even assuming for the sake of argument that these irregularities exist in the abstract of judgment pertaining to this case, and even assuming such irregularities constitute error, the errors were harmless and do not warrant reversal. *See Boyd v. State*, 650 N.E.2d 745 (Ind. Ct. App. 1995).

As to the abstract of judgment pertaining to the prior conviction, Johnson makes the following argument:

Furthermore, Criminal Justice Notes: Unsigned Affidavit insufficient to prove statuses, and pursuant to *Abdullah v. State*, No. 49A05-0505-CR-300, 847 N.E.2d 1034 (Ind. Ct. App. 2006). An unsigned abstract fails to represent the trial courts Final Judgment and, therefore, insufficient to prove a prior conviction for purposes of proving Mr. Johnson’s statuses of a violent felon.

*Amended Appellant's Brief* at 8 (transcribed verbatim). We understand this to be a claim that the abstract introduced at trial to prove the prior firearm conviction supporting the serious violent felon charge was insufficient because it did not bear the judge's signature. If that is indeed Johnson's claim, it has no factual support in the record, which includes an abstract of judgment reflecting a 1996 firearm conviction, complete with the committing judge's signature.

Judgment affirmed.

KIRSCH, J., and BAILEY, J., concur.